

Chapter 114

TAXATION¹

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¹ **Cross references:** Any ordinance for the tax and special assessment levies saved from repeal, § 1-10(11); any ordinance for the budget ordinances, resolutions and actions saved from repeal, § 1-10(15); administration, ch. 2; finance, § 2-241 et seq.; businesses, ch. 22.

ARTICLE I. IN GENERAL

Sec. 114-1. Statement of tax rates on tax receipts.

Pursuant to Wis. Stats. § 74.08(1), in lieu of entering on each tax receipt the several amounts paid respectively for state, county, school, local and other taxes, the aggregate amount of such taxes shall be combined in a single column on the tax receipt issued by the clerk-treasurer. The clerk-treasurer shall cause to be printed or stamped on the tax receipt the separate proportion or rate of taxes levied for state, county, school, local or other purposes.

(Code 1986, § 3.01(2))

Secs. 114-2--114-30. Reserved.

ARTICLE II. BOARD OF REVIEW²

Sec. 114-31. Membership; appointment and term of members.

The board of review shall consist of five residents of the city, none of whom shall occupy any public office or be publicly employed. Such members shall be appointed by the mayor subject to confirmation by the city council. Such members shall hold office for five years or until their successors are appointed and qualified. One member shall be appointed each year.

(Code 1986, § 1.10(1))

Sec. 114-32. Compensation of members.

Members of the board of review shall receive such salary or compensation as the council may from time to time provide.

(Code 1986, § 1.10(3))

Sec. 114-33. Procedures.

The provisions of Wis. Stats. §§ 70.47 and 70.48 shall govern the proceedings of the board of review.

² **Cross references:** Boards, commissions and committees, § 2-191 et seq.

(Code 1986, § 1.10(2))

Article III. Room Tax.

Section 114-50. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Bed and Breakfast Establishment. Any place of temporary lodging that provides four (4) or fewer rooms for rent, which is open for rental more than ten (10) nights in a twelve (12) month period, is the owner's personal residence and is occupied by the owner at the time of rental, and in which the only meal served is breakfast.

Gross Receipts. Has the meaning as defined in Wisconsin Statutes, Section 77.51(4)(a), (b) and (c), insofar as applicable.

Hotel or Motel. A building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other buildings or group of buildings in which accommodations are available to the public.

Exempt from this definition are mobile homes as defined in Wisconsin Statutes, Section 66.058(1)(d), and accommodations rented for a continuous period of more than one (1) month and accommodations furnished by any hospitals, sanitoriums or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

Transient. Any person residing for a continuous period of less than one (1) month in a hotel, motel or other furnished accommodations available to the public.

[Ordinance 2008-06].

Section 114-51. Imposition of Tax.

1. Pursuant to Wisconsin Statutes, Section 66.0615(1m), a tax is hereby imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Said tax shall be at the rate of seven percent (7.0%) of gross receipts from such furnishing of rooms or lodging. Said tax shall not be subject to the selective sales tax imposed by Wisconsin Statutes, Section 77.52(2)(a)1.

2. Sales to the United States federal government and sales to persons listed under Wisconsin Statutes, Section 77.54(9a), shall be exempt from this tax when the following conditions occur:
 - a. The lodging establishment must issue the billing or invoice for the lodging in the name of the exempt entity; and
 - b. The lodging establishment must receive from the exempt entity:
 - i. In the case of federal and Wisconsin state or local governmental units, a purchase order or similar written document (such as a letter of authorization), or
 - ii. In the case of nonprofit religious, charitable, scientific or educational organizations, the organization's certificate of exempt status number.So long as Subparagraphs 2.a. and 2.b. are met, the exemption still applies when the transient employed by the exempt entity pays with his or her own funds.

[Ordinance 2008-06].

Section 114-52. Collection of Tax.

1. **Administration.** The tax shall be administered by the City Treasurer, who shall, at City expense, provide the necessary application and reporting forms at no cost to the taxpayer.
2. **Quarterly Returns.** Each person liable for the tax imposed by this Article shall submit to the City Treasurer a tax return for each calendar quarter no later than the end of the month following the close of each calendar quarter. Said return shall include the gross receipts of the preceding calendar quarter from such retail furnishing of room or lodging, the amount of taxes imposed for such period and such other information as the City Treasurer deems necessary. No person may file an intentionally false or fraudulent return. All such returns shall be signed by the person required to file a return or duly authorized agent.
3. **Failure to File Return.**
 - a. If any person fails to file a return as required under this Article, the City Treasurer shall make an estimate of the amount of the gross receipts under Sections 114-51 and 114-52.
 - b. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the City Treasurer's possession or may come into his or her possession.
 - c. On the basis of this estimate, the City Treasurer shall compute and determine the amount required to be paid to the City, adding to the sum thus arrived at interest as set forth in Section 114-52, Paragraph 7.
4. **Determination of Tax by Audit.**
 - a. The City Treasurer may, by office audit, determine the tax required to be paid to the City or the refund due to any person under this Article. Said determination may be made upon the basis of any other information within the City Treasurer's possession that meets the criteria set forth in Wisconsin Statutes, Section 66.0615(2). One or more such office audit determination may be made of the amount due for any one or for more than one period.
 - b. The City Treasurer may, by field audit, determine the tax required to be paid to the City or the refund due to any person under this Article. The determination may be

made upon the basis of the facts contained in the return being audited or upon any other information within the City Treasurer's possession. The City Treasurer is authorized to examine and inspect the books, records, memoranda and property of any person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the City Treasurer from making a determination of tax at any time.

5. Delinquent Tax Payments. The tax imposed by this article shall be deemed delinquent if not paid by the due date of the return.

6. Interest on Unpaid Taxes.

- a. All unpaid taxes imposed by this Article shall bear interest at the rate of twelve percent (12.0%) per annum.
- b. Interest shall be imposed from the due date of the tax payment until the day on which the tax is paid or deposited with the City Treasurer.
- c. All refunded taxes shall bear interest at the same rate computed from the date of receipt of the tax payment until the day on which said taxes are refunded. If the City Treasurer determines that any overpayment of tax has been made intentionally or by reason of carelessness or neglect, or if the tax which was overpaid was not accompanied by a properly completed return, or if information requested was not provided within the time set forth above, no interest shall be allowed upon the refund of the overpaid tax.

7. Successor's Responsibility for Tax Payment.

- a. If any person, liable for any amount of tax imposed by this Article, in any manner, in whole or in part, terminates, transfers, conveys, sells, gifts or divides his or her business stock of goods, his or her successor(s) or assign(s) shall withhold sufficient sums from the purchase price to fully and completely satisfy the tax imposed by this Article.
- b. Such withheld sum(s) shall be due and payable in full to the City Treasurer upon demand.
- c. Each such assignee and successor shall be personally liable and responsible to the City of Evansville for the full amount of such transferor's unpaid tax.

[Ordinance 2008-06].

Section 114-53. Recordkeeping. Every person liable for the tax imposed by this Article shall keep or cause to be kept adequate financial and other records, receipts, invoices and related papers and documents sufficient to accurately establish revenues and tax liabilities imposed by this Article. Such records shall be retained and made available to the City Treasurer for a period of three (3) years from the date of a filing period.

[Ordinance 2008-06].

Section 114-54. Confidentiality.

1. All returns, schedules, exhibits, writing or audit reports relating to such returns on file with the City are deemed to be confidential, except the City Treasurer may divulge their contents to the following and no others: persons using the information in the discharge of duties imposed by law or the duties of their office or by order of a court.
2. No person having an administrative duty under this Article or having access, lawfully or unlawfully, to information provided to the City under this Article shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this Article, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or permit any return, or copy thereof to be seen or examined by any person except as provided in Section 114-54, Paragraph 1.

[Ordinance 2008-06].

Section 114-55. Penalties. Any person who is subject to the tax imposed by this Article that fails or refuses to permit the inspection of his or her records by the City Treasurer after such inspection has been duly required by the City Treasurer or that fails to file a return as provided in this Article, or any person that violates any other provision of this Article, shall be subject to a forfeiture penalty pursuant to Section 1-11. Each day, or portion thereof, that such violation continues shall be deemed to constitute a separate offense.

[Ordinance 2008-06].